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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,463	10/24/2003	Patricia Ruzakowski Athey	1320D2	2526

7590 10/19/2005

PPG INDUSTRIES, INC.  
Intellectual Property Department  
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EXAMINER  
BLACKWELL RUDASIL, GWENDOLYN A

ART UNIT	PAPER NUMBER
1775	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/693,463  
Filing Date: October 24, 2003  
Appellant(s): ATHEY ET AL.

**MAILED**  
OCT 19 2005  
**GROUP 1700**

PPG Industries Ohio, Inc  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed September 12, 2005.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

No amendment after final has been filed.

**(5) *Summary of Claimed Subject Matter***

The summary of invention contained in the brief is correct.

**(6) *Grounds of Rejection to be Reviewed on Appeal***

The Appellant's statement of the grounds of rejection is correct.

**(7) *Claims Appendix***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) *Evidence Relied Upon***

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

**(9) *Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

*(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the Appellant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the Appellant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.*

2. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent no. 5,693,134, Stephens.

*Regarding claims 1 and 3*

Stephens discloses a pigment comprised of a substrate with a coating of  $Cu_xMn_{3-x}O_4$  (x-1.4 or 1.5), which can have a blue color in transmission, (column 6, lines 32-37, and Table 1). The substrate can be made of glass, (column 8, lines 35-37, claim 6), meeting the requirements of claims 1 and 3.

Because the coating composition of Stephens meets all of the requirements of Appellant's coating composition and the coating is formed on a glass substrate as also required by Appellant, it would be expected that the pigment of Stephens would exhibit a blue color in transmission.

***(10) Response to Argument***

Appellant contends that amended claim 1 is a coated article made up of a glass substrate that demonstrates a blue color in transmission and therefore light transmitted through the glass substrate has a blue color.

Stephens specifically discloses coating a substrate with a coating of  $Cu_xMn_{3-x}O_4$  (x-1.4 or 1.5), which can have a blue color in transmission, (column 6, lines 32-37, and Table 1).

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Stephens also specifically discloses that the coating can be used on a glass substrate as demonstrated in claim 6, (column 8, lines 35-37). Because the coating composition of Stephens meets all of the requirements of Appellant's coating composition and the coating is formed on a glass substrate, as also required by Appellant, it would be expected that the pigment of Stephens would exhibit a blue color in transmission. Appellant has provided no evidence to the contrary.

Appellant has also not limited the coated article to having any particular structure nor has Appellant provided a thickness or any other defining characteristics to the glass.

It is the position of the Examiner that the prior art teaches a glass substrate with a coating thereon that meets the compositional limitations of the present claims. The fact that Appellant's claims are drawn to a coated article is simply not enough to define the subject matter over patented claims to a pigment, which is also a coated article. The comparison is not between the claimed coated article and paint but to the coated article and the pigment, its ultimate intended use notwithstanding. There is no evidence of record to indicate the pigment would not exhibit a blue color in transmission.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Gwendolyn Blackwell



Conferees:

Deborah Jones



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